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October 3, 2018

Honorable Kenneth M. Karas  
United States District Judge  
United States District Court  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: *Suzan Russell v. Westchester Community College, et al.*  
16-cv-1712 (KMK)  
Request to Reconsider Denial of Extension of Discovery Deadlines

Dear Judge Karas:

This office represents The County of Westchester, Westchester Community College ("WCC"), Veronica Delcourt ("Delcourt") and Heather Ostman (collectively referred to as "County Defendants") in the above referenced action. County Defendants respectfully request that Your Honor reconsider the denial of County Defendants' request to extend the discovery deadlines.

By way of background, although this case was filed on March 7, 2016, County Defendants filed a pre-motion letter seeking permission to file a motion to dismiss on June 2, 2016 and a conference was held on July 13, 2016 at which time Plaintiff was given permission to file an Amended Complaint which she did on July 29, 2016. County Defendants filed another pre-motion letter seeking permission to file a motion to dismiss on September 15, 2016 and a conference was held on November 15, 2016 at which time a briefing schedule was set by the Court. Discovery was stayed pending the resolution of that motion. County Defendants filed their motion to dismiss on February 2, 2017, opposition was filed on March 15, 2017 and reply papers were filed on April 5, 2017. The Court issued an Opinion and Order dated September 27, 2017 denying the motion and scheduled a status conference for October 26, 2017.

The case was automatically referred to Mediation on October 16, 2017, a Mediator was assigned on November 3, 2017, this office provided the Mediator with a Position Statement and the Mediation was held on February 23, 2017. The Mediation was unsuccessful and a status conference was held on March 12, 2018, the Court adopted a scheduling order and scheduled a conference for December 14, 2018. United States Magistrate Judge Paul Davison was assigned to resolve discovery disputes and telephone conferences before Judge Davison were held on April 18, 2018, June 11, 2018 and July 13, 2018. On May 22, 2018, Dorina Cela, Esq. filed an appearance on behalf of Plaintiff. A settlement conference was held on August 9, 2018.



Plaintiff's attorney filed a first request for an extension to complete discovery and this office joined in that request as the parties had been attempting in good faith, although without success, to resolve this case. The discovery requests served by both parties in April, 2018 are extensive and Plaintiff was seeking to depose the County Defendants as well as 8 additional non- parties, some of whom are no longer County employees. The Court granted Plaintiff's August 30, 2018<sup>1</sup> request and on September 28, 2018, the Court denied County Defendants' request to extend discovery for an additional 35 days<sup>2</sup>.

The County Defendants' request is necessitated by various factors including:

- The Director of Human Resources at WCC who was coordinating discovery responses left the College last month and a replacement has not been appointed;
- It will take additional time to compile complete discovery responses<sup>3</sup> including obtaining electronic files of all of the individuals listed in Plaintiff's discovery demands;
- It is anticipated that the parties will have objections to some of the discovery requests and will need some time to resolve those issues prior to seeking judicial intervention;
- Defendant Delcourt lives out of state<sup>4</sup> and some of the information sought in Plaintiff's discovery demands require conversations with former employees, some of whom are difficult to reach.

In addition, the undersigned has conflicting deadlines and motions in other federal and state cases which that make it very difficult to complete discovery within the current time frames and the additional 35 days is respectfully requested. Although this case has been on the docket since March, 2016, there has been almost constant communication between and among the parties and the Court including motion practice, amended pleadings, Mediation, a settlement conference and conferring between the parties regarding discovery and possible resolution of the issues. It is respectfully submitted that this request will not cause any undue delay.

If Your Honor grants this request to reconsider, the following dates are proposed: discovery responses to be provided on or before October 30, 2018; depositions and fact discovery to be completed on or before December 21, 2018; Requests to Admit to be provided on or before January 9, 2019; discovery of Plaintiff's Expert(s) to be provided on or before January 17, 2019; County Defendants'

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<sup>1</sup>This office did not anticipate that it would need additional time when the Plaintiff's August 30, 2018 letter was filed.

<sup>2</sup> Although the last settlement conference was in August, the parties have continued to try to speak about a possible resolution and have been working in good faith to move this case along, keeping in email or telephone contact on a regular basis.

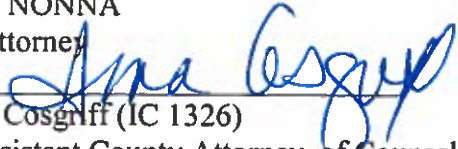
<sup>3</sup> To date, this office has compiled almost 1000 pages of discovery responses.

<sup>4</sup> The parties have agreed to conduct Dr. Delcourt's deposition via telephone.

Expert(s) to be provided on or before February 15, 2019 and depositions of Experts to be completed on or before March 19, 2019.

Should Your Honor require additional information regarding this application, we would welcome the opportunity to discuss this further at a conference. Thank you.

Respectfully submitted,  
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